SUPREME COURT OF THE UNITED STATES.

No. 100.

THE UNITED STATES, APPELLANTS,

vs.

WILLIAM MARVIN.

ON APPEAL FROM THE SUPERIOR COURT FOR THE DISTRICT OF EAST FLORIDA.

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J. & G. S. Gideon, printers.

Before the honorable Isaac H. Bronson, judge of the superior court for the district of East Florida, and especially authorized by law to receive and adjudicate claims and titles to lands within the district aforesaid.

Be it remembered, that on the 17th day of June, in the year of our Lord one thousand eight hundred and forty-three, William Marvin personally brought and filed in the clerk's office of the superior court for the district of East Florida his petition or claim to certain land therein mentioned; which said petition or claim is in the words and figures following, to wit:

To the honorable Isaac H. Bronson, judge of the superior court for the eastern district of Florida:

The petition of William Marvin, a citizen of the *United States*, respectfully showeth:

That your petitioner claims title to all that certain tract or parcel of land situated, lying, and being on the east side of the St. John's river, in the county of St. John's, in the eastern district of Florida, and described in the grant thereof as seven thousand acres of land, on the east side of the river St. John's, between the place called Dunn's *lank* and that known as Horse landing, including in said portion of land the place called Buffalo bluff, which was lately renounced in favor of the Government by the house of Don John Forbes & Co.

Your petitioner further shows that the said tract of land was originally granted to one Bernardo Segui, a subject of his catholic majesty; and at the time said land was so granted to him, a resident and inhabitant of East Florida aforesaid, then a province and dependency of the crown of Spain; that the said grant, bearing date the twentieth day of December, eighteen hundred and fifteen, was duly made on or about that day by Estrada, *that* the governor of the said province *of* of East Florida in virtue of the powers and authority in him vested as such governor.

Your petitioner further shows that after the making of said grant, to wit, in the month of September, 1818, the said Bernardo Segin, the original grantee thereof, caused the said land granted to him as aforesaid to be laid off and surveyed by Don Andres Burgevin, a private surveyor, with the permission of the government of the province, there being at that time no public surveyor authorized to survey said land; a copy of the plat of which survey is hereunto annexed.

And your petitioner further shows unto your honor that the claims of the said Bernardo Segui, to whom said lands were so granted as aforesaid, as well for the benefit of those entitled under him as for his own benefit, was duly submitted to the examination of the board

of commissioners appointed under and in virtue of an act of Congress of the United States, entitled "an act amending and supplementary to the act for ascertaining claims and titles to lands in the Territory of Florida, and to provide for the survey and disposal of public lands in Florida," approved the 3d March, 1823, and said claim was recommended by said board to Congress for confirmation; and the said claim was confirmed by Congress to the extent of the quantity contained in one league square, by the act entitled "an act supplementary to the several acts providing for the settlement and confirmation of private land claims in Florida," approved May 23d, 1828.

And your petitioner further shows that the grant of said land so claimed by him is embraced by the treaty between Spain and the United States, of the 22d February, 1819, and that said grant has not been annulled by the said treaty, nor by the ratification thereof by the king of Spain; that the said claim has not been decided or finally settled under the provisions of the act of Congress of the United States last aforesaid, or any of the acts to which said act is supplementary; that the said claim contains a greater quantity of land than the commissioners appointed under the said act were authorized to decide, and above the amount confirmed by said act, and that the said claim has not been reported by the commissioners appointed under any of the aforesaid acts, or any other, or by the register and receiver, acting as such, under the several acts of Congress of the United States in that case made and provided, as antedated or forged.

And your petitioner further shows to your honor that the said Bernardo Segui, the original grantee of said land, in or about the year 1823, conveyed said land to one John B. Strong, for a valuable consideration, and that, in or about the year 1826, the said John B. Strong died intestate and seized and possessed of said land, leaving as his heirs-at-law several minor children, for whom no guardian was ever appointed, to the knowledge of your petitioner, and who had no natural guardians living to protect their interest in the premises, and that, consequently, no suit by petition or otherwise has heretofore been instituted to obtain a final decision upon the validity of said grant. The heirs of the said John B. Strong (the younger of whom has but recently become of age) have recently sold and conveyed said land to your petitioner for a full and valuable consideration to them paid, all of which your petitioner is ready to verify by proof.

Wherefore your petitioner prays that the validity of the aforesaid title to the said land so claimed by your petitioner may be inquired into and decided upon by this honorable court, and that due process may issue and be served upon the attorney of the United States for the eastern district of Florida, according to the provisions of the acts of Congress in such case made and provided; and your petitioner, as in duty bound, &c.

Signed, WM. MARVIN.

Citation.

The President of the United States to the marshal of the United States for the eastern district of Florida, greeting:

You are hereby commanded to cite and admonish Thomas Douglas, esq., attorney of the United States for said district, to be and appear before the judge of our superior court for the eastern district of Florida, sitting as a court to adjudicate claims to land in the district aforesaid, at the court-house, in the city of St. Augustine, *of* the 21st day of June inst., then and there to answer the claim of William Marvin to certain land therein mentioned, and show cause, if any he can, why the same should not be decreed to the said claimant; and have then there this writ.

Witness the honorable Isaac H. Bronson, judge of our said [L. S.] court, at the court-house aforesaid, this 17th day of June, A. D. 1843.

GEO. R. FAIRBANKS, *Clerk.*

Served personally on Thomas Douglas, esq.

JOHN BEARD, *Marshal.*

JUNE 17th, 1843.

DISTRICT OF EAST FLORIDA, *in superior court:*

THE UNITED STATES ads. WILLIAM MARVIN. } Land claim 7,000 acres.

The answer of Thomas Douglas, attorney of the United States for the district of East Florida, to the petition or bill of complaint of William Marvin.

The said attorney, for and on behalf of the same United States, saving and reserving to them now and at all times hereafter, all and all manner of benefit of exception to the manifold errors, defects, and insufficiencies and irregularities in the said petition or bill of complaint contained, for answer thereto, or unto so much thereof as it is material or necessary for the said United States to answer unto, answereth and saith—

That he has heard and believes that the said Governor Estrada, in the said petition or bill of complaint mentioned, did make to the said Bernardo Segui a grant for seven thousand acres of land, as therein stated and set forth, and therefore admits the same.

But this respondent by no means admits that, after the making the said grant, to wit, in the month of September, 1818, the said Bernardo Segui caused the said grant to be laid off and surveyed by Don Andres Burgevin, a private surveyor, with the permission of the government of the province; on the contrary, this respondent denies the same, and insists that if any such survey was made by the said Andres Burgevin, it was made without any authority from the government of the said province.

And this respondent further avers and insists that, if any such survey was made as in said petition is alleged, it was made (as appears by the showing of the petitioner himself) after the 24th January, (to wit, in the month of September,) 1818, and is therefore rendered entirely null and void by the provisions of the treaty between Spain and the United States of the 22d February, 1819, in said petition or bill of complaint mentioned.

And this respondent further admits that the claim of the said Bernardo Segui, to whom the said lands were so granted as aforesaid, was submitted to the examination of the board of commissioners appointed under and by virtue of the act of Congress, approved the 3d of March 1823, in said petition or bill of complaint mentioned, and that the same was *not* reported by the said commissioners as antedated or forged.

The respondent also admits that the said claim was confirmed by the act of Congress, of May 23d, 1828, to the extent of the quantity contained in one league square, as stated and alleged in said petition or bill of complaint; but this respondent avers that in and by the same act of Congress it was (and is) expressly provided that no such confirmation should be effectual until all the parties in interest, under the original grant, should file with the register and receiver of the district, where the grant might be situated, a full and final release of all the residue contained in the said grant; and that no such release of all the residue of the grant, under which the petitioner in this case claims, has been so filed, and that the said confirmation is therefore wholly ineffectual.

And this respondent further alleges and insists, that it is not pretended or alleged in said petition, or bill of complaint, that the said Bernardo Segui, or those claiming under him, have ever occupied or cultivated the said tract of land, or any part thereof; that they have always hitherto wholly failed and neglected to do so, and have thereby lost all right and title, if any they ever had, thereto; but this respondent does not admit, but, on the contrary, expressly denies, that the said Bernardo Segui, or any of those claiming under him, ever had any legal or equitable right or claim to any designated or defined tract of land, including the said place called Buffalo bluff; that they, or either of them, never made any legal, definite location of the said tract of land, and that the calls of the said grant are so indefinite that no location can be made under it.

And this respondent, further answering, says that he is a stranger to all other matters and things in the said petition or bill of complaint contained and alleged, and cannot therefore admit or deny the same, but leaves the petitioner to such proof as he may be able to adduce at the hearing of this cause.

But this respondent further alleges and expressly insists that, if all the matters and things in the said petition *of* bill of complaint, alleged and set forth, are true, in manner and form as therein stated, the said petitioner has *not*, by his said petition *of* bill of

complaint, made such a case as entitles him to relief in this honorable court; and that this honorable court has no jurisdiction of this cause, and cannot take cognizance thereof against the said United States.

And this repondent denies, &c., without that, that there is any other matter or thing, in the said petition or bill of complaint contained, material or effectual for this respondent, to make answer to, and not herein and hereby sufficiently answered unto, confessed and avoided, traversed or denied, is true, to the knowledge or belief of this respondent.

All which matters and things this respondent is ready to aver, maintain and prove, as this honorable court shall award, and humbly prays that the said United States may be hence dismissed with their reasonable costs in this behalf unlawfully sustained.

Signed, THOS. DOUGLAS,
U. S. Dist. Atty, &c.

Filed, June 23d, 1843.

IN THE SUPERIOR COURT, *East Florida.*

WM. MARVIN
vs.
THE UNITED STATES.

The said William Marvin, for replication to the aforesaid answer of the United States, by their attorney, says the allegations contained in said answer, which are repugnant to the allegations contained in his petition, are insufficient and untrue, and that the matters and things contained in said answer are insufficient to preclude the judgment or decree of this court in favor of the prayer of the petitioner of the said Marvin.

Signed, WM. MARVIN, *in pro. per.*

Filed, June 23d, 1843.

Know all men by these presents, that we, William Marvin and William A. Forward, are held and firmly bound unto the United States of America in the just sum of three hundred dollars, to the payment whereof, well and truly to be made and done, we bind ourself, our heirs, executors and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated this 24th day of June, A. D. 1843.

Whereas William Marvin hath caused to be filed, in the clerk's office of the superior court, for the eastern district of Florida, his claim to certain land therein mentioned:

Now the condition of this obligation is such, that if the said William Marvin and said Forward shall well and truly pay, or cause to be paid, to the officers of said court, witnesses, and all others entitled to receive the same, and all such costs as may legally accrue in the prosecution of the said claim, and shall pay and satisfy all such costs as the United States may recover by the decree of

the said court in said claim, then this obligation to be null and void, otherwise to be and remain in full force and effect.

Signed, WM. MARVIN, [L. S.]
W. A. FORWARD. [L. S.]

Signed and sealed, in presence of
GEO. R. FAIRBANKS, *Clerk.*

Filed, June 24th, 1843.

BERNARDO SEGUI vs. THE UNITED STATES. } Decree.

Memorial for 7,000 *acres.*

The claimant, in this case, produced in evidence a memorial and decree of absolute property from governor, dated 20th December, 1815, for seven thousand acres of land, and also a plat and certificate of survey, by which it appears that, in virtue of the decrees of the Cortes of 22d January, 1813, and the royal order of 1815, there was granted to the claimant, in absolute property, the seven thousand acres of land at the place set forth in the memorial and certificate of survey; and as we conceive that, by the decrees and order aforesaid, the quantity to be apportioned, according to the merit of the applicant and the number of his family, was left alone to the discretion of the governor for the time being, that title of the claimant would have been confirmed to him under the Spanish government; we recommend the case to Congress for their confirmation. Recommended for confirmation 20th January, 1824.

I, Antonio Alvarez, keeper of the public archives of East Florida, do hereby certify the foregoing to be a true and correct copy from page 21, of book A, entitled "Register of Claims for the District of East Florida, transferred to this office according to law by the register and receiver of the land office, while acting as land commissioners, as part of the papers relative to private land claims in East Florida aforesaid.

Witness, my hand and seal of office, at the city of St. Au-
[L. S.] gustine, territory of Florida, this 13th day of June, A.D. 1843.

(Signed) ANTONIO ALVAREZ, *K. P. A.*

To the honorable the commissioners appointed to ascertain claims and titles to lands in East Florida:

The memorial of Bernardo Segui respectfully showeth, that your memorialist claims title to a tract of land containing about seven thousand acres, situated on the east side of St. John's river, at a place known by the name of Buffalo bluff, bounded on the north by Buffalo creek and Piney island, on the south by vacant land, on the east by part of Dunn's creek and vacant lands, and on the west by St. John's river, which title your memorialist obtained by a grant

from the Spanish Government, made by his excellency Governor Estrada, for services, the 20th December, 1815, and filed herewith, marked A. And your memorialist further showeth that he is actually legally seized and possessed of said land; that he is a citizen of the *United States*, and resident of the city of St. Augustine. All which is respectfully submitted, &c.

Signed, BERNARDO SEGUI.

I, Antonio Alvarez, keeper of the public archives of East Florida, do hereby certify the foregoing to be a true and correct copy of the original, transferred to this office according to law by the register and receiver of the land office, while acting as land commissioners, as part of the papers relative to private land claims in East Florida.

Witness my hand and seal of office, at the city of St. Augus-
[L. s.] tine, Territory of Florida, this thirteenth day of June, A. D. one thousand eight hundred and forty-three.

Signed, ANTONIO ALVAREZ, *K. P. A.*

Don Andres Burgevin, (private surveyor,) of this city of St. Augustine, East Florida.

I do certify that, in consequence of a permit from this Government, I have measured and bounded a tract of land containing seven thousand acres, more or less, situated on the east side of St. John's river, at a place known as Buffalo bluff, and running south along the margin of said river, as appears from the annexed plan; which land belongs to Don Bernardo Segui, the same having been granted to him by said Government on the 19th December, 1815.

St. Augustine, of Florida, 10*th Sept.*, 1818.

[For plat, see original, page 17.]

Signed, ANDRES BURGEVIN.

I certify the foregoing to be a correct translation from the document in the Spanish language hereto annexed.

JOHN M. FONTANE, *Translator.*

St. Augustine, 14*th June*, 1843.

[For Spanish document, see original copy, page 18.]

[For plat, see original, page 18.]

I, Antonio Alvarez, keeper of the public archives of East Florida, do hereby certify the foregoing to be a true and correct copy of the original, transferred to this office according to law by the register and receiver of the land office, while acting as land commissioners, as part of the papers relative to private land claims in East Florida aforesaid.

Witness my hand and seal of office, at the city of St. Augus-
[L. S.] tine, Territory of Florida, this thirteenth day of June, A. D. one thousand eight hundred and forty-three.

ANTONIO ALVAREZ, *K. P. A.*

Translation.

His excellency Don Bernardo Segui, acting public notary of the town of Fernandina, or resident of this city, to your excellency:

He has come to this capital with the sole object of showing to your excellency, as he has already verbally stated, the deplorable situation and state of that place, caused by the want of commerce, in consequence of the declaration of peace between Great Britain and the United States of America.

In May of the present year, this exponent was appointed by your predecessor, Don Sebastian Kindelan, to the office which he holds in said town, and, as he expected great advantages from it, he abandoned in this city, as is well known, the business which he had for the support of himself and family, thereby abandoning a lucrative situation for one of less value, and the consequence is that he is now without any resource, as he has already said in relation to Fernandina, so much fallen off in the absence of all trade, that a whole week passes without his receiving six and a quarter cents in fees. Now, your excellency, if a fact so positive, added thereto the limited services that I have rendered, are worthy of the consideration of your excellency, I hope, from your known justice, and in virtue of the superior orders of his majesty (whom God preserve) recommending the granting of lands, gratis, to Spanish subjects, you will be pleased to concede to me the quantity of seven thousand acres of land on the east side of the river St. John's, between the place called Dunn's lake and that known as Horse landing, including in said portion of land the place called Buffalo bluff, which was lately renounced in favor of the government by the house of Don John Forbes & Co., who received other lands therefor.

Therefore, I pray your excellency to grant me the said number of seven thousand acres of land at the place designated, which I have no doubt of obtaining from the strict justice of your excellency.

(Signed) BERNARDO SEGUI.

ST. AUGUSTINE, OF FLORIDA, 19*th Dec.*, 1815.

ST. AUGUSTINE, OF FLORIDA, 20*th December*, 1815.

It being true that Don John Forbes & Co., have relinquished the lands referred to by petitioner in this petition, and [in] virtue of

the reasons he sets forth to this government, let there be granted to him, in absolute property, the seven thousand acres of land he prays for, without injury to any third party, according to the demarcations which he designates, and let there be issued to him a certified copy of this grant, which shall serve him in all events as a title in form for his security.

(Signed) ESTRADO.

I certify the foregoing to be a correct translation from the document in the Spanish language hereunto annexed.

(Signed) JOHN M. FONTANE,
Translator.

St. Augustine, 15*th June*, 1843.

[Spanish document, see original copy, pages 22 and 23.]

I, Antonio Alvarez, keeper of the public archives of East Florida, do hereby certify the foregoing to be a true and correct copy of the original on file in my office.

Witness my hand and seal of office, at the city of St. Augus-
[L. s.] tine, territory of Florida, this thirteenth day of June, A. D. one thousand eight hundred and forty-three.

(Signed) ANTONIO ALVAREZ, *K. P. A.*

Superior Court, *District of East Florida:*

Saturday, *June 24th*, 1843.

Present, the honorable Isaac H. Bronson, judge, &c.

William Marvin
vs. } Land claim.
The United States.

This cause coming on to be heard this day, and counsel appearing on the part of said claimant, as well as upon that of the United States, and the petition of the said claimant being read, and the answer of the United States being also read, and the testimony of Elias B. Gould, a witness on the part of the claimant, having been received and reduced to writing, and the hearing and argument of the same being concluded, the same was submitted to the court for its decision and decree therein.

William Marvin
vs.
The United States.

Elias B. Gould, sworn: Examined the grant—the premises are described as lying between the place called Dunn's lake and a place called Horse landing, including the place called Buffalo bluff. Since 1836, I have been past that place, I think, four times. Above the mouth of Dunn's creek there is a place which was

pointed out to me as Buffalo bluff, lying between Dunn's creek, the outlet of Dunn's lake, and the place known as the Horse landing. I could not state how far it is above the mouth of the creek or below the Horse landing. Buffalo bluff is above an island called Murphy's island. It is a place that cannot be mistaken. I should suppose it impossible to make a mistake in finding the premises from the description in the grant. There is no difficulty, I should think, in locating the seven thousand acres at the place described, including Buffalo bluff. A part of Dunn's creek would constitute one of the boundaries, and the St. John's river would constitute one of the boundaries. Buffalo bluff is a place well known on the St. John's river, it is in St. John's county, East Florida. I should suppose it would be 10 or 12 miles from the mouth of Dunn's creek, by the windings of the river, to Horse landing. I do not know what the distance really is, but should suppose it was that. Dunn's lake is on the east and northeast of this grant, and the St. John's river on the west. The outlet of Dunn's lake empties into the St. John's, forming in part the northern or northeastern boundary of the grant. There is such a place known as Dunn's lake lying east of St. John's river. I suppose the north portion of that lake may be 9 or 10 miles from the St. John's river. Buffalo bluff is on the river St. John's, on the east side. Buffalo bluff is situated between Dunn's lake and Horse landing. Buffalo bluff is below Horse landing on the river. It is a place well and notoriously known. I cannot tell the distance from Buffalo bluff to Horse landing, it may be 4, or 5, or 6 miles. It is a high point of land, jutting out into the river, and easily known.

John B. Strong became the purchaser of these premises about the year 1823 or 1824, of Bernardo Segui, and he died seized and possessed of said premises in 1825, and left minor heirs. I think he left five children. In 1832, I think three of them were minors. Three of them were small children at the time he died. Some I know were minors in 1832. The petitioner became the purchaser of this property in 1836.

(Signed) E. B. GOULD.

The petitioner also gave in evidence the exemplification of proceedings in chancery, and a decree of foreclosure of a mortgage of the premises, executed by Segui to Strong, and dated 16th February, 1824. The decree of the foreclosure was absolute, and is dated 13th May, 1825. He also gave in evidence a deed from the marshal of the premises to the petitioner, showing a sale of the premises, on an execution against Strong's estate, on the 6th June, 1835; a purchase by the petitioner, the entering of which at length in the record was agreed by the counsel in the cause to be dispensed with.

SUPERIOR COURT, *District of East Florida:*

MONDAY, *June* 26, 1843.

Present, the honorable I. H. Bronson, judge.

WILLIAM MARVIN
vs.
THE UNITED STATES. } Land claim.

This cause having been heard and submitted to the court on Saturday last, and the said court having examined the claim of the said petitioner, and the answer of the attorney of the United States thereto, together with the evidence and testimony filed and offered in this cause, and having maturely considered the same, and the questions arising therein, doth order, adjudge, and decree, that [by] an act of Congress of 26th May, 1830, the claimant was not bound to file his petition in this cause within one year from the passage of said act; and that this court hath jurisdiction to adjudicate and finally settle the claim of the said petitioner; and that this claim is valid; and that, in accordance with the laws and customs of Spain, and under and by virtue of the late treaty of amity, settlement, and limits, between the United States of America and the King of Spain, ratified by the President of the United States on the 22d February, 1821, and under and by virtue of the laws of nations and of the United States, it is hereby confirmed, and adjudged and decreed unto the said claimant, in manner following, that is to say, the quantity of seven thousand acres of land, on the east side of the river St. John's, between the place called Dunn's lake and that known as Horse landing, including, in such portion of land, the place called Buffalo bluff, as in the memorial of Bernardo Segui to the Governor, and in the grant of the Governor thereon is set forth. And it is further ordered, that the survey thereof, in evidence in this cause, and purporting to have been made by one Andres Burgevin on the 10th day of September, 1818, be, and the same is hereby, rejected. And it is ordered, that the said lands be resurveyed by, and under the direction of, the surveyor general of the Territory; that in making such survey, the surveyor shall run out the same in accordance with the calls of the grant, and shall make his report therein, accompanied by a map or plat of the said lands, and a survey bill of the same—which said map or plat and survey bill shall show how and where the lines of the said tract, thus surveyed, connect or intersect with the lines of the Government surveys, and shall, if said lands are upon surveyed Government lands, show upon what township, range, section, the same are situated; and said report shall be made to this court, if possible, by the next term of this court, to the end that, on the coming in of the same, such other and further order may be entered in the premises as may seem meet and proper.

SUPERIOR COURT, *District of East Florida:*

MONDAY, *June* 26, 1843.

Present, the honorable Isaac H. Bronson, judge.

WILLIAM MARVIN
vs.
THE UNITED STATES. } Land claim.

This day came, as well the attorney of the United States for this district, as the said claimant, and the said attorney of the United States moved the court, that an appeal be granted in this case, in behalf of the United States, from the decree of this court to the Supreme Court of the United States, and that a citation, with notice of said appeal, may be forthwith issued by the clerk of this court to the appellee, and that the same may be served by the marshal of this district upon the said appellee, or his solicitor or agent, and returned to this court within thirty days from the issuing thereof; all of which is ordered accordingly; and, hereupon, the said William Marvin acknowledged, in open court, notice of said appeal and service of said citation.

EASTERN DISTRICT OF FLORIDA,
St. John and Mosqueto counties:

I, George R. Fairbanks, clerk of said court, do hereby certify, that the foregoing is a true and correct exemplification of the record in the case of William Marvin, in petition for confirmation of title to land claimed by him by virtue of a Spanish grant.

In testimony whereof, I have hereunto set my hand and the [SEAL.] seal of said court, at the city of St. Augustine, in the district aforesaid, this 31st day of July, 1843.

GEO. R. FAIRBANKS, *Clerk.*
By JESSE A. BRUSH, *D'y Clerk.*

Filed,